



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.05.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P. (MD) No.11698 of 2019

N.Bharathi

... Petitioner

Vs.

1.The Regional Transport Officer,
Paramakudi Regional Transport Office,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Theriruvveli Police Station,
Ramanathapuram District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 1st respondent to return the petitioner's original driving license bearing No.TN6519970000531 valid up to 28.06.2019 within stipulated time to be fixed by this Court.

For Petitioner	: Mr.SP.Vijay Nivas
For Respondents	: Mr.N.Shanmuga Selvam Additional Government Pleader

O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Mr.N.Shanmuga Selvam, learned Additional Government Pleader takes notice on behalf of the respondents.

3. The writ petitioner is working as a driver in Tamil Nadu State Transport Corporation, Paramakudi Branch. The bus bearing registration No.TN 63-N-1210 belonging to the Tamil Nadu State Transport Corporation was driven by him on 26.04.2019. At about 4.45 p.m., when the bus was nearing Kodarenthal Bus Stop, an old lady suddenly boarded the bus from the front entrance of the bus and on seeing the same, the petitioner applied brakes. However, she fell down and died on the spot. The Inspector of Police, Theriruvveli Police Station, Ramanathapuram district registered a case against the writ petitioner in crime number 13 of 2019, for the alleged offences punishable under Section 304(A) of IPC. The case is still under investigation.



4. Mr.SP.Vijay Nivas, learned counsel appearing for the petitioner contended that the original driving licence of the writ petitioner has been impounded by the first respondent. He also relied on the decision in Mr.P.Sethuram Vs. the Licensing Authority, Regional Transport Officer, Dindigul reported in 2010 WLR 100 and contended that it is only the competent criminal Court that can impound the petitioner's driving license and that it is not open to the first respondent herein to do so.

5. Mr.N.Shanmuga Selvam, learned Additional Government Pleader appearing for the respondents would contend that as per Section 19 of the Motor Vehicles Act, 1988 the licensing authority has the power to disqualify a driver from holding a driving licence or revoke such licence, if the licensing authority is satisfied, after giving the holder of a driving licence an opportunity of being heard that he is using or has used a motor vehicle in the commission of a cognizable offence. He would further contend that the enquiry would be conducted within a reasonable time after giving due opportunity to the writ petitioner and prayed for the dismissal of the present petition.

6. As per the decision in P.Sethuram Vs. the Licensing Authority, Regional Transport Officer, Dindigul reported in 2010 WLR 100 followed by a Single Bench of this Court in W.P(MD)No.338 of 2019, dated 07.01.2019 it has been held that the competent criminal Court alone can impound the petitioner's driving licence and that the Regional Transport Officer cannot impound the same unless the petitioner is found guilty of the offence alleged to have been committed by him.

7. In this case, the final report has not yet been filed and it is still under investigation. In the facts and circumstances of the case, the first respondent is directed to return the petitioner's original driving licence within a period of one week from the date of receipt of a copy of this order. The petitioner is also directed to co-operate with the enquiry which would be conducted by the respondents under Section 19(1) of the Motor Vehicles Act, 1988.

8. With the above directions, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (V.O)

// True Copy //

Sub Assistant Registrar(CS)



1.The Regional Transport Officer,
Paramakudi Regional Transport Office,
Paramakudi,
Ramanathapuram District.

2.The Inspector of Police,
Theriruvveli Police Station,
Ramanathapuram District.

+1 CC to SPL GP (SR-66252[F] dated 24/05/2019)

+1 CC to M/s.SP.VIJAYNIVAS, Advocate (SR-66231[F] dated
23/05/2019)

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CS: (07/06/2019) 3P 5C